

DEC 22 2005 *9P*

MARY L.M. MORAN  
CLERK OF COURT

IN THE UNITED STATES

DISTRICT COURT OF GUAM

CESS NAVARRO OLMO, RONNIE PASCUAL FERRERAS,	)	CIVIL CASE NO. 05-00025
	)	
PLAINTIFFS,	)	
	)	
-VS-	)	<b>SCHEDULING ORDER AND DISCOVERY PLAN</b>
	)	
A.P. GREEN INDUSTRIES, INC., et. al.,	)	
	)	
DEFENDANTS.	)	

Pursuant to Rule 16 and 26(f) of the Federal Rules of Civil Procedure and Local Rule 16.1 for the District Court of Guam, the Court hereby adopts the following proposed Scheduling Order:

1. **Nature of the Case:** Plaintiffs allege the following: The Plaintiffs were employed by the United States Navy approximately between the years 1966 to 1992. During their employment the Plaintiffs worked aboard Navy vessels transiting between the Philippines and Guam and in Navy shipyards in Hawaii and the Philippines. During their employment the Plaintiffs were regularly and closely exposed to asbestos and asbestos-containing products that the Defendants manufactured, sold and distributed for use on the vessels and in the shipyards where the Plaintiffs were employed. As a result of their exposure to these ultrahazardous

products, the Plaintiffs unknowingly inhaled asbestos dust and asbestos fiber, as a result of which they each contracted malignant mesothelioma, cancer, and/or other asbestos-related diseases, which illnesses were not discovered until about 2005. Plaintiffs allege damages on the basis of (a) negligence; (b) strict liability; (c) warranty of merchantability; (d) market-share liability; (e) enterprise liability; (f) unfitness for intended use; and (g) negligent misrepresentation. The Plaintiffs also seek punitive damages. Defendants deny plaintiffs' allegations.

2. **The posture of the case is as follows:**

(a) **The following motions are on file:** Certain of the Defendants have filed Motions to Dismiss for Lack of Personal Jurisdiction and for Improper Venue. The date scheduled for these motions is January 17, 2006. Certain of the Defendants have also filed a Notice of Tag-Along Action. The Plaintiffs have filed a Preliminary Objection to Transfer of Case as Tag-Along Action.

(b) **The following motions have been resolved:** None of the motions to dismiss have been resolved, as they will not be heard until January 17, 2006.

(c) **The following discovery has been initiated:** No party has initiated discovery at this time.

3. **Motions to Add Parties or Claims:** All motions to add parties and claims shall be filed on or before **December 22, 2006**.

4. **Motions to Amend Pleadings:** All motions to amend pleadings shall be filed on or before **December 22, 2006**.

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5. **Status of Discovery:**

(a) The times for disclosures under Rule 26(a) and 26(e) of the Federal Rules of Civil Procedure are modified as follows:

(1) The “initial disclosures” described in subsections (A), (B), (C), and (D) of Fed. R. Civ. P. 26(a)(1) shall be made on or before **June 19, 2006**.

(2) Initial Fed. R. Civ. P. 26(a)(2) disclosures of expert witnesses shall be made on or before **July 17, 2006**. Rebuttal disclosures shall be made on or before **August 17, 2006**.

(3) The “pretrial disclosures” described in Fed. R. Civ. P. 26(a)(3)(A), (B) and (C) shall be made at least thirty (30) days before the trial date or by **August 24, 2007**.

(b) The following is a description of all pretrial discovery each party intends to initiate prior to the close of discovery:

Plaintiffs: Interrogatories, Requests to Produce, Admissions and Depositions.

Defendants: Interrogatories, Requests to Produce, Admissions and Depositions.

6. The parties appeared before the District Court on **December 13, 2005, at 11 a.m.** for the Scheduling Conference.

7. **Discovery Cut-Off Date:** The discovery cut-off date (defined as the last day to file responses to discovery) is **March 29, 2007**.

8. **Discovery Motions Cut-Off Date:** All discovery motions shall be filed on or before **April 16, 2007**.

9. **Dispositive Motions.** All dispositive motions shall be filed on or before **June 15, 2007.**

10. **Settlement Prospects:** Settlement prospects are unknown at this time.

11. **Preliminary Pre-Trial Conference:** The Preliminary Pre-Trial Conference shall be held on **September 4, 2007 at 10 a.m.**

12. **Filing of Trial Documents:** The parties' pretrial materials, discovery materials, witness lists, designations and exhibit lists as required by LR 16.7(d) shall be filed on or before **September 10, 2007.** The deadlines for filing all other pretrial materials shall follow the deadlines established under the local rules.

13. **Pre-Trial Order:** The proposed Pre-Trial Order shall be filed on or before **September 10, 2007.**

14. **Final Pre-Trial Conference:** The Final Pre-Trial Conference shall be held on **September 17, 2007 at 10:00 a.m.**

15. **Trial Date:** The trial shall be held on **September 24, 2007 at 9:00 a.m.**

16. **Jury:** Plaintiffs have demanded trial by jury.

17. **Length of Trial:** It is presently anticipated that the trial will take 3-5 weeks.

18. The names of counsel are as follows:

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Corporation, Bayer CropScience, Inc., and The Dow  
Chemical Company

19. The parties do not wish to submit this case to a settlement conference.

20. The parties present the following suggestions for shortening trial: The parties may present written or videotaped depositions of witnesses in lieu of live testimony.

21. The following issues will affect the status or management of the case:

“Notices of Tag Along Action” have been filed by some of the defendants. On September 22, 2005, Plaintiffs filed their Notice of Preliminary Objection to Transfer of Case as Tag-Along Action.


The following other considerations will affect the timing and management of this case:

1. Some of the percipient witnesses who will testify about the presence or use of the defendants’ products may be located in the Philippines or in foreign countries and arrangements will need to be made concerning their depositions.
2. All of the parties will probably hire experts. Coordinating the exchange of expert witness reports and the depositions of these experts may be time-consuming.
3. All of the parties have off-island counsel, which may result in some delay in arranging schedules for discovery, depositions, and presentation of evidence and witnesses at trial.
4. Not all of the defendants named in plaintiffs’ First Amended Complaint have been served. If there are additional defendants who have not yet appeared in the action, this may delay the action by the filing of pre-answer motions.

Date: 12/22/2005.

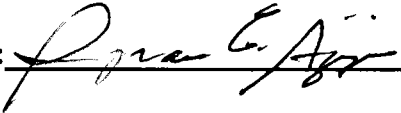
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**DISTRICT COURT OF GUAM  
HAGATNA, GUAM**

  
HONORABLE JOAQUIN V.E. MANIBUSAN JR.  
MAGISTRATE JUDGE,  
DISTRICT COURT OF GUAM

Approved as to form and content:

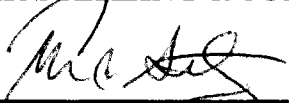
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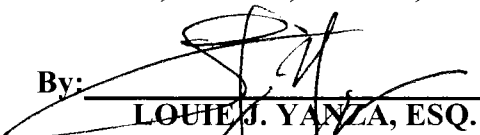
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